

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No: 09/779,177)	
)	Control No.: 90/101,092
Ex Parte Reexamination of: RE38,589)	
)	Art Unit: 3992
Filed: March 4, 2008)	
)	Confirmation No. 6314
Title: Method and System For On Demand)	
Downloading of Module to Enable)	Examiner: Woo H. Choi
Remote Control of an Application)	
Over a Network)	

DECLARATION OF INVENTORS UNDER 37 CFR § 1.131

We, Vincent Frese II, W. Brian Blevins, and John P. Jarrett declare and state under oath as follows:

1. We are the named inventors for the above-identified patent application and have been employed by the assignee of the subject patent from well prior to the conception of the invention until the present date.
 - A. **Development of the Invention**
2. We participated in the conception in the United States of the invention claimed in the subject patent application at least as early as August, 1995. Mr. Frese directed the efforts of the inventors and all of the inventors participated in the activities resulting in the preparation of the patent application and its filing on January 19, 1996 that matured into the U.S. Pat. No. 5,909,545, which was reissued as the subject patent, RE38,598.
3. The invention claimed in the subject patent was conceived at least as early as August, 1995 and the inventors, working with their patent attorneys, diligently prepared and filed a patent application directed to the invention, as documented below.

4. Exhibit 1 hereto is a copy a document entitled "On Demand Remote Control Product Overview" bearing a date of August, 1995, which will be referred to as "On-Demand-1." On-Demand-1 is an 8-page product overview describing important aspects of the invention and its advantages, including a design overview that sets forth the fundamentals of the conceived architecture for on demand remote control.
5. On-Demand-1 very clearly describes the invention claimed in the subject patent. For example, the third sentence on page 3 states, "[t]his [remote control] software is automatically executed by the remote while still connected to the host without having to go through an installation process." The second bullet point on page 3 states, "[t]he remote user can use the application resident on the host computer even though the remote does not have necessary remote control software pre-installed." The third bullet point on page 3 states, "[t]he remote user does not have to go through an installation process of the receiver software avoiding all of the problems associated with installing the software."
6. The inventors conceived of the invention prior to drafting On-Demand-1. Accordingly, the invention was conceived at least as early as August, 1995, the date indicated on On-Demand-1.
7. Exhibit 2 hereto includes a copy of a page from personal calendar of Mr. Frese including an entry made in his handwriting for August 18, 1995 labeled "Dave Lockman" referring to an invention disclosure meeting scheduled for 11AM-12:30PM with Mr. Lockman, the attorney who drafted the patent application that matured into the subject patent. Mr. Lockman and Mr. Frese conducted the referenced invention disclosure meeting in Mr. Lockman's office on August 18, 1995, during which the invention claimed in the subject patent, was disclosed and discussed.

8. Exhibit 3 hereto is a copy a document entitled "On Demand Remote Control High Level Design," which will be referred to as "On-Demand-2," and a cover sheet dated October 30, 1995 transmitting this document from our office to Mr. Lockman. On-Demand-2 is a detailed document for the invention building upon the earlier On-Demand-1 product overview.
9. On-Demand-2 is an extensively detailed 21 page description of the subject invention. The inventors were responsible for preparing this document during the period from August, 1995 until transmission of the document to Mr. Lockman on October 30, 1995. The inventors worked cooperatively and diligently during this time period, expending substantial time and effort completing On-Demand-2 to support the patent application process. The inventors' efforts preparing On-Demand-2 under direction and supervision of Mr. Frese was the main focus of the invention development process during the time period from August 1995 until October 30, 1995.
10. Once On-Demand-2 was completed, it was transmitted to Mr. Lockman on October 30, 1995 for his use in preparation of the patent application. Drafting, review, editing, finalizing and filing the patent application was the main focus of the invention development process during the time period from October 30, 1995 until the application was filed on January 11, 1996.
11. Exhibit 4 is a copy of a page the activity planer in the personal calendar of Mr. Frese with the notation "Week 48" in the lower left hand corner showing activities for the week of November 27, 1995. The entry for Role # 5 Leader/Manager refers to "DVHHTTP, DV Enterprises," which are references to the on-demand remote control project. This entry indicates that Mr. Frese worked on this project during the week of November 27, 1995, documenting the inventors' continued development efforts in support of the patent application that was being prepared by Mr. Lockman.

12. Exhibit 5 hereto is a copy of a facsimile dated December 14, 1995 between Mr. Blevins and Mr. Lockman transmitting a copy of the patent application with a number of marked-up revisions. Exhibit 5 documents that that Mr. Lockman had provided a first draft of the patent application and the review process was underway as of December 14, 1995.
13. Exhibit 6 hereto is a copy of an email dated December 18, 1995 between Mr. Blevins and Mr. Lockman documenting further activity concerning preparation of the patent application. Mr. Blevins states in the email that he has provided his "first round of updates to the patent application" sent to the inventors by Mr. Lockman. Exhibit 6 documents that the inventors were actively supporting the patent application process as of December 18, 1995.
14. Exhibit 7 hereto is a copy of a facsimile between Mr. Blevins and Mr. Lockman transmitting a copy of the patent application with a number of marked-up revisions. Although the facsimile coversheet is undated, the inventors believe this document to be Mr. Blevins' "first round of updates to the patent application" referenced in Exhibit 6.
15. Exhibit 8 hereto is an email dated January 11, 1996 documenting another conversation between Mr. Blevins and Mr. Lockman including the "fixing up of the hand drawings," which is a reference to the preparation of formal drawings for the patent application.
16. Exhibit 9 hereto is a copy of a facsimile between Mr. Blevins and Mr. Lockman transmitting a copy of formal drawings for the patent application with a number of marked-up revisions. Although the facsimile coversheet is undated, the inventors believe this document to be the formalization of the hand drawings referenced in Exhibit 8.

17. Exhibit 10 includes four facsimile confirmation sheets confirming transmissions of documentation from Mr. Lockman to Mr. Blevins on the following dates: December 14, 1995 (23 pages), December 21, 1995 (26 pages), January 19, 1996 (27 pages), and January 19, 1996 (4 pages). Although the documents transmitted under the cover sheets are not present in the in file, the dates, numbers of pages and parties allow the inventors to identify these documents as the cover sheets for the draft patent applications and final revisions leading up to the filing of the application on January 19, 1995.
18. As documented in the documents identified above, the inventors diligently pursued the patent application through a continual effort, without any inexcusable delay, from the date of conception of the invention at least as early as August, 1995 until the filing of the patent application for the invention on January 19, 1996.

B. Comments Concerning the Cited Prior Art


19. The paper entitled Paulos, et al., "A World Wide Web Telerobotic Remote Environment Browser, Fourth International World Wide Web Conference, 1995" ("Paulos") is cited as a prior art reference in the present reexamination.
20. Exhibit 11 hereto is a true and accurate copy of an Internet page published at www.w3.org/conferences/ww4 concerning the "WW4 Conference" stating that the conference was held on December 11-14, 1995. Paulos indicates that it was delivered at the WW4 Conference, which is the earliest known publication date for the Paulos reference.

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21. The paper entitled Gosling et al., "The Java Programming Environment. A White Paper." Sun Microsystems, 1995 ("Gosling") is cited as a prior art reference in the present reexamination.
22. Gosling bears a date of October, 1995. To the extent that this statement on the paper establishes a publication date, this is the earliest known publication date for the Gosling reference.
23. We hereby incorporate as attachments to this Declaration Exhibits 1-11 filed on February 2, 2009 as attachments to the Declaration of Vince Frese II. These are the same exhibits referenced in this Declaration.

Each undersigned, being hereby warned that willful false statements and the like so made, are punishable by fine and/or imprisonment under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application or any resulting patent, declares that the facts set forth in this Declaration are true; all statements made of the undersigned's own knowledge are true; and all statements made on information and belief are believed to be true.

 II 2/27/09

Vincent Frese II Date

Brian Blevins 02/27/2009
Brian Blevins Date

John P. Jarrett Date

Patents

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the preceding document was filed in the above-captioned Ex Parte Reexamination and served by United States First Class Mail with adequate postage on the Third Party Requester at the following address shown on the Ex Parte Reexamination Communication Transmittal Form:

David H. Judson
15950 Dallas Parkway, Suite 225
Dallas, Texas 75248

On the following date: March 3, 2009

Respectfully submitted,
/Michael J. Mehrman/
By: Michael J. Mehrman
Reg. No. 40,086